

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

C&P COAL CORPORATION, a Utah
corp.,

Plaintiff,

vs.

CONSOLIDATION COAL COMPANY,
CONSOL ENERGY, INC., and CNX
LAND RESOURCES, INC.,

Defendants.

MEMORANDUM DECISION AND
ORDER GRANTING
DEFENDANTS' MOTION FOR
CLARIFICATION AND REFERRAL
TO MAGISTRATE JUDGE

Case No. 2:04-CV-942 TS

This matter is before the Court on Defendants' Motion for Clarification of Order. Defendants seek clarification of the portion of the Court's Memorandum Decision Sustaining, in Part, Plaintiff's Objection to Magistrate Judge's May 17, 2006 Order (Order) that found that one paragraph of material submitted for *in camera* review was (1) relevant to this case, and (2) should be produced in redacted form. Defendants contend that production should not be ordered because the Magistrate Judge had not yet had the opportunity to consider their claim of privilege for the material. Plaintiff opposes the Motion

on the ground that the Order was clear and, therefore, there is no reason for clarification.

Being fully advised, the Court agrees with Defendants that the Magistrate Judge has not yet had an opportunity to consider their claim of privilege and, therefore, it was premature for the Court to order the material to be produced. It is therefore

ORDERED that Defendants' Motion for Clarification of Order (Docket No. 97) is GRANTED. It is further

ORDERED that the issue of Defendants' claim that the relevant paragraph is covered by privilege is referred to Magistrate Judge Wells. A separate referral order is not necessary because the standard Order of Reference¹ already covers consideration of discovery, including claims of privilege.² It is further

ORDERED that the paragraph³ of the Order requiring production of the paragraph in redacted form is VACATED. Production, if any, shall be determined by the Magistrate Judge.

DATED November 6, 2006.

BY THE COURT:



TED STEWART
United States District Judge

¹Docket No. 7.

²DUCivR 72-2(b) (magistrate judges authorized to hear and determine discovery motions).

³Docket No. 90 at 4.